

**UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: MICHAEL HORGAN; TIM ALLEN; MICHAEL GARDINER;  
TERRI MCGILL  
Serial No.: 08/908,994  
Filed: AUGUST 8, 1997  
Title: METHOD AND APPARATUS FOR SECURE COMMUNICATIONS  
Group:  
Examiner:  
Docket No.: 36212.00006 (SYN5397.01A)

**Commissioner for Patents, USPTO  
Office of Petitions  
Crystal Plaza Four, Suite CP4-3C23  
2201 South Clark Place  
Arlington, VA 22202**

**RENEWED PETITION UNDER 37 CFR 1.137(b)**

Dear Sir:

In response to the dismissal of the Applicant's original petition under 37 CFR 1.137(b) on 11/12/2003, the Applicant's hereby respectfully renew their petition. The following supporting documents are enclosed:

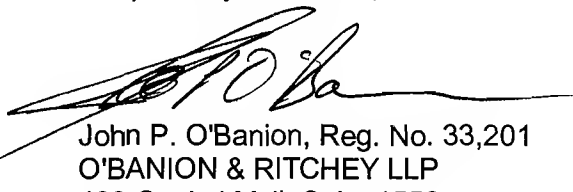
1. Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b) (Small Entity). This document is signed by my inventor Michael J. Horgan to confirm that the entire delay in filing a proper oath/declaration was unintentional.

2. A renewed §1.47(a) petition that includes a sufficient showing that a reasonable diligent effort was made, in vain, to locate or reach Michael Gardner. Please note that, upon further investigation of this matter, it has been discovered that the correct spelling of the name of the aforementioned inventor is Michael Gardiner. The application was originally transmitted with incorrect spelling of Mr. Gardiner's name.

The Applicant believes that no extension of time is required. However, if an extension of time is required, please consider this to be a petition therefore and charge any extension fees due to Deposit Account No. 07-1137.

Date: 1/12/2004

Respectfully submitted,



John P. O'Banion, Reg. No. 33,201  
O'BANION & RITCHEY LLP  
400 Capitol Mall, Suite 1550  
Sacramento, CA 95814  
(916) 498-1010

EV352304266US

**Petition For Revival Of An Application For Patent Abandoned  
Unintentionally Under 37 CFR 1.137(b) (Small Entity)**

Docket No.  
**36212.00006 (SYN5397.01A)**

In Re Application Of: **MICHAEL HORGAN ET AL.**

Serial No.  
**08/908,994**

Filing Date  
**08/08/1997**

Examiner

Group Art Unit

Invention: **METHOD AND APPARATUS FOR SECURE COMMUNICATION**

Attention: Office of Petitions  
COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper response to a notice or action by the Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extension of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee--required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. ☒ A proposed reply to the above-identified Office Action:

☐ is enclosed. ☒ was filed on 10/06/2003

The proposed reply is in the form of: Response to Notice to File Missing Parts of Application

2. ☐ The issue fee:

☐ is enclosed. ☐ was paid on \_\_\_\_\_

3. ☒ A small entity declaration:

☐ is enclosed. ☒ was filed on 10/06/2003

4. ☒ The abandoned application was a:

☐ design application. ☒ utility application. ☐ plant application.

5. ☐ A terminal disclaimer (and fee) disclaiming a period equivalent to the period of abandonment is enclosed.

6. ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

**Petition For Revival Of An Application For Patent Abandoned  
Unintentionally Under 37 CFR 1.137(b) (Small Entity)**

Docket No.  
**36212.00006 (SYN5397.01A)**

In Re Application Of: **MICHAEL HORGAN ET AL.**

Serial No.  
**08/908,994**

Filing Date  
**08/08/1997**

Examiner

Group Art Unit

Invention: **METHOD AND APPARATUS FOR SECURE COMMUNICATION**

**Calculation and Payment of Fees**

Enclosed are the following fees:

7. ☐ Petition fee under 37 CFR 1.17(m) in the amount of: \$0.00
8. ☐ Fee for amendment in the amount of: \_\_\_\_\_
9. ☐ Fee for extension of time to reply to Office Action in the amount of: \_\_\_\_\_
10. ☐ Issue fee in the amount of: \_\_\_\_\_
11. ☐ Continuing application filing fee in the amount of: \_\_\_\_\_
12. ☐ Terminal disclaimer fee in the amount of: \_\_\_\_\_
13. ☒ **THE PETITION FEES WERE PAID ON 10/06/2003** \_\_\_\_\_

Total fees enclosed: \$0.00

The fee of **\$0** is to be paid as follows:

- ☐ A check in the amount of the fee is enclosed.
- ☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No.

**Petition For Revival Of An Application For Patent Abandoned  
Unintentionally Under 37 CFR 1.137(b) (Small Entity)**

Docket No.  
**36212.00006 (SYN5397.01A)**

In Re Application Of: **MICHAEL HORGAN ET AL.**

Serial No.  
**08/908,994**

Filing Date  
**08/08/1997**

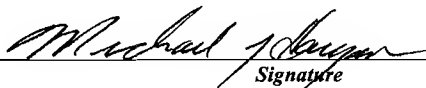
Examiner

Group Art Unit

Invention: **METHOD AND APPARATUS FOR SECURE COMMUNICATION**

**Statement**

The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

  
Signature

Dated: *1-12-04*

**Michael J. Horgan  
5037 Buffwood Way  
Sacramento, CA 95841**

I certify that this document and fee is being deposited  
on \_\_\_\_\_ with the U.S. Postal Service as  
first class mail under 37 C.F.R. 1.8 and is addressed to the  
Mail Stop Petition, Commissioner for Patents, P.O. Box  
1450, Alexandria, VA 22313-1450.

*Signature of Person Mailing Correspondence*

*Typed or Printed Name of Person Mailing Correspondence*

CC:

**UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: MICHAEL HORGAN; TIM ALLEN; MICHAEL GARDINER;  
TERRI McGILL  
Serial No.: 08/908,994  
Filed: 08/08/1997  
Title: METHOD AND APPARATUS FOR SECURE COMMUNICATIONS  
Group:  
Examiner:  
Docket No.: 36212.00006 (SYN5397.01A)

**Commissioner for Patents, USPTO  
Office of Petitions  
Crystal Plaza Four, Suite CP4-3C23  
2201 South Clark Place  
Arlington, VA 22202**

**RENEWED PETITION TO ACCEPT DECLARATION FROM JOINT INVENTORS  
SIGNING ON BEHALF OF AN INVENTOR WHO CANNOT BE REACHED  
37 CFR 1.47(a)**

Dear Sir:

In response to the dismissal of the Applicant's original petition under 37 CFR 1.47(a) on 11/12/2003, the Applicants hereby respectfully renew their petition.

A reasonably diligent effort has been made to locate/reach Michael Gardiner in response to dismissal of the Applicant's original petition. However, Mr. Gardiner has refused to execute a Declaration or cannot be reached.

The following is submitted in support of the Applicant's renewed petition.

1. Upon further investigation of this matter, it has been discovered that the correct spelling of the name of the non-signing inventor is Michael Gardiner. The application was originally transmitted with an incorrect spelling of Mr. Gardiner's name. See, Declaration of Michael J. Horgan.

2. Mr. Gardiner is the former CEO of ACL Datacom, Inc. See Declaration of Michael J. Horgan.

3. The SSN of Michael Gardiner is 565-31-9586. See Declaration of Michael J. Horgan.

4. An Internet-wide search for Michael Gardiner was conducted. The search located multiple names of Michael Gardiner and it was not possible to identify any of them as the former CEO of ACL Datacom, Inc. and inventor on this application. See, Declaration of Danica Reeder.

5. A Lexis-Nexis public records search for Michael Gardiner was conducted, and 69 Michael Gardiners were located. Again, it was not possible to identify any of them as the former CEO of ACL Datacom, Inc. and inventor on this application. See, Declaration of Danica Reeder.

6. An investigator was contacted to locate Michael Gardiner based on his SSN. Based on available information connected to that SSN, the last known address of Michael Gardiner in the U.S. is:

10325 Juniper Creek Lane  
Las Vegas, NV 89515.

See, Declaration of Danica Reeder.

7. Efforts have been made to contact Mr. Gardiner directly by telephone, but no listing is available. See, Declaration of Danica Reeder.

8. None of the Michael Gardiners located in the above-mentioned searches were located in the Las Vegas, NV area. See, Declaration of Danica Reeder.

9. On November 21, 2003, a copy of the patent application and Combined Declaration and Power of Attorney was sent to Michael Gardiner at the last known address listed above, via Federal Express, Tracking Number 7925 1701 3650, so that Mr. Gardner could sign the Combined Declaration and Power of Attorney for this application. A Federal Express return envelope was provided so that the document could be returned. See, Declaration of Danica Reeder.

10. Delivery was made to the above address on November 26, 2003, and the package was signed for by Vilma Gardiner. See, Declaration of Danica Reeder.

11. Vilma Gardiner is the name of the wife of Michael Gardiner. See, Declaration of Michael J. Horgan.

12. As of the date hereof, Michael Gardiner has not signed and returned the Combined Declaration and Power of Attorney sent to him on November 21, 2003. See, Declaration of Danica Reeder.

13. On January 9, 2004, Vilma Gardiner was contacted by telephone at her place of business. During that conversation, Vilma Gardiner was asked if she knew if Michael Gardiner was going to return the documents. Vilma Gardiner was evasive during the conversation. When asked for Mr. Gardiner's telephone number, Vilma Gardiner would not provide one. Finally, Vilma Gardiner said that she would pass the message on to Michael Gardiner, and that she would call back with an answer that same day. See, Declaration of Danica Reeder.

14. As of this date, neither Vilma Gardiner nor Michael Gardiner have responded. See, Declaration of Danica Reeder.

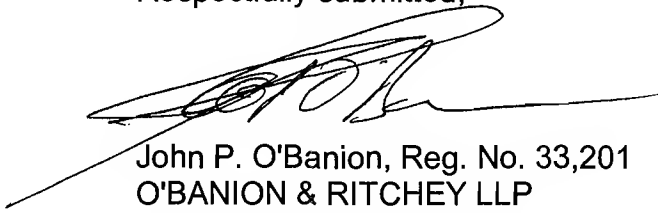
**Therefore, MICHAEL GARDINER is an inventor who cannot be reached and/or refuses to sign a declaration in connection with this application after making diligent efforts. Accordingly, the Applicants herein respectfully request that this petition be granted.**

Also, a newly signed Combined Declaration and Power of Attorney for each of the signing inventors is enclosed to reflect the correct spelling of Mr. Gardiner's name. Each such document also includes added pages where the above-named joined inventors have signed on behalf of Michael Gardiner.

Since the petition fees have already been paid, no fee is due. However, if any additional fee is due, that fee may be charged to Deposit Account No. 07-1137.

Date: 1/12/2004

Respectfully submitted,



John P. O'Banion, Reg. No. 33,201  
O'BANION & RITCHEY LLP  
400 Capitol Mall, Suite 1550  
Sacramento, CA 95814  
(916) 498-1010